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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,928	03/31/2004	Admir James Mesalic	MES1.002	5800
39863	7590	09/28/2006	EXAMINER	
SONNABENDLAW 600 PROSPECT AVE BROOKLYN, NY 11215			EDELL, JOSEPH F	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 09/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/813,928

Applicant(s)

MESALIC ET AL.

Examiner

Joseph F. Edell

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-12 and 35-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-12 and 35-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 17 July 2006 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 8, 9, 11, 12, 35, 39, and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,786,256 B2 to Sugawara.

Sugawara discloses a protective covering that includes all the limitations recited in claims 8, 9, 11, 12, 35, 39, and 40. Sugawara shows a protective covering having a main protective portion/main placemat area 2 (see Diagram A below) with top and

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bottom surfaces of vinyl (column 3, lines 1-5), a front protective portion/front flap attached to the main protective portion and *capable* of operatively attaching to a front arm portion of a child's chair and of extending from a table top to the child's chair, two side protective portions attached to and extending from the front protective portion, each of the side protective portions having left and right sides, at least one of the side protective portions being *capable* of operatively attaching around one side arm portion of the child's chair by operatively connecting the left side of the at least one side protective portion to the right side of the same side protective portion, each of the protective portions having coupling elements contained on the left and right sides *capable* of operatively connecting the left side of one of the side protective portions to the right side of the same protective portion wherein the coupling elements are ribbon ties, and the side arm portions are orthogonal to the front protective portion. See Figure 10 of Sugawara for the teaching that unused pieces 5 are folded over to attach fasteners 8 thereby creating a pocket of the main protective portion, and, therefore, teaching the limitation recited in claim 11.

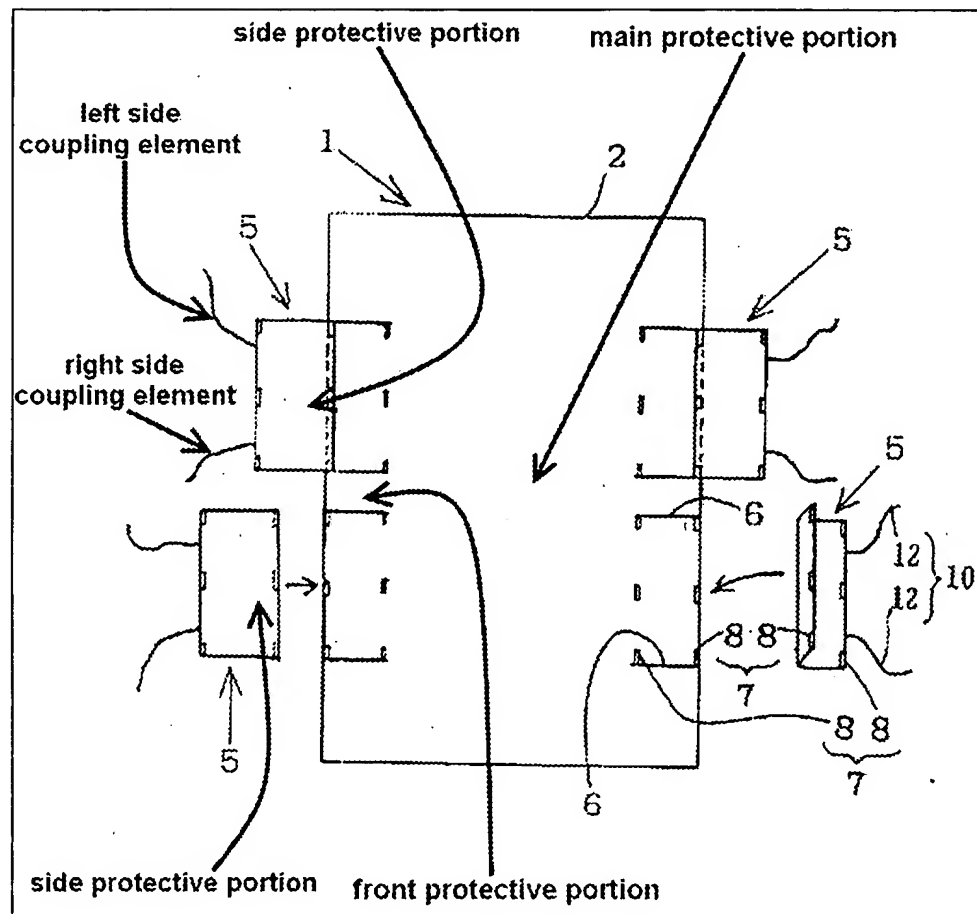


Diagram A - Annotated Figure 6 of Sugawara

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugawara in view of U.S. Patent No. 4,137,356 to Shoemaker et al.

Sugawara disclose a protective covering that is basically the same as that recited in claim 10 and 41 except that the bottom side of the main protective portion lacks a skid restraint portion, as recited in the claims. See Figure 10 of Sugawara for the teaching that the use of skid restraint portions 14 may be included on pieces 5. Shoemaker et al. show a protective covering similar to that of Sugawara wherein the main protective portion (see Fig. 1) has a bottom side with skid restraint portions 17 (see Fig. 4). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the protective covering of Sugawara such that the bottom side of the main protective portion has skid resistant portions/material, such as the protective covering disclosed by Shoemaker et al. One would have been motivated to make such a modification in view of the suggestion in Shoemaker that the skid resistant portions on the bottom side of the covering help ensure the covering will not slip or skid.

6. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sugawara.

Although the specified type of coupling element is not specifically recited, modifying the coupling element would have been obvious at the time of Applicant's invention because the use of preferred materials discovered by routine experimentation is ordinarily within the skill of the art. Further, it would have been an obvious matter of design choice to modify the type of coupling element since the Applicant has not disclosed that having the coupling elements only being hook and loop segments, metal brads, magnets, sticking pads, or buttons solves any stated problem or is for any

particular purpose and it appears that the coupling element would perform equally well with an well known type used in the art.

7. Claims 37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugawara in view of U.S. Patent No. 4,627,363 to Jones.

Sugawara disclose a protective covering that is basically the same as that recited in claim 37 and 38 except that the front flap lacks coupling elements, as recited in the claims. See Figure 1 of Sugawara for the teaching that covering has a front flap extending between the side flaps. Jones shows a protective covering similar to that of Sugawara wherein the protective covering 1 (see Fig. 1) has a free ends with coupling elements 2,6 of hook and loop fasteners. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the protective covering of Sugwara such that the front flap has coupling elements of hook and loop fasteners, such as the protective covering disclosed in Jones. One would have been motivated to make such a modification in view of the suggestion in Jones that the coupling elements allow for attachment of free ends of the covering underneath the table to further secure the covering.

8. Claims 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugawara in view of U.S. Patent No. 3,920,870 to Ackerman et al.

Sugawara disclose a protective covering that is basically the same as that recited in claims 42 and 43 except that the top and bottom surfaces lack an intermediate layer and a translucent top surface, as recited in the claim. Ackerman et al. show a protective covering similar to that of Sugwara wherein the protective covering has a top surface 10

(see Fig. 2) that is translucent, a bottom surface 12, and an intermediate layer 14 of printed fabric. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the protective covering of Sugawara such that the top surface is translucent and the placemat area includes an intermediate layer of printed fabric, such as the protective covering disclosed in Ackerman et al. One would have been motivated to make such a modification in view of the suggestion in Ackerman et al. that the intermediate layer and translucent top surface allows for a decorative placemat with interchangeable intermediate layer.

Response to Amendment

9. The amendment to the claims filed on 17 July 2006 does not comply with the requirements of 37 CFR 1.121(c) because the claim identifiers of claims 13-30 is incorrect. Claims 13-30 were canceled in Applicant's Response filed 23 September 2005. Any response to this Office Action should correct this error.

Response to Arguments

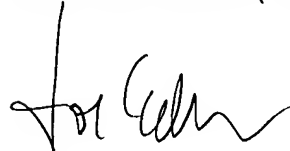
10. Applicant's arguments filed 17 July 2006 have been fully considered but they are not persuasive. Applicant argues that the pieces 5 of Sugawara do not include coupling elements on their sides, as recited in claims 8 and 35. Initially, please note the "napkin" pieces 5 are inherently protective portions. In addition, Figure 6 of Sugawara clearly shows that each member 10 has discrete portions 12 on the right and left sides of each side protective portion. These portions 12 are capable of attaching the left side of the

side protective portion to the right side of the same side protective portion. In general, the recitation of the intended use of the claimed invention being used with a child's chair must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joe Edell
September 22, 2006